

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

(1) PATRICK DAILEY and)	
(2) HELEN DAILEY,)	
)	
Plaintiffs,)	
)	
vs.)	Case No. <u>CIV-14-417-R</u>
)	
(1) MANUEL ALVARADO,)	
(2) Barry G. Sell,)	
(3) Mechanical Technologies by Barry, L.L.C.,)	
and (4) Hunton Distribution Group, L.P.,)	
)	
Defendants.)	

NOTICE OF REMOVAL

Defendant Hunton Distribution Group, L.P. (“Defendant Hunton”) hereby notifies the Court and the parties that it is removing this action to the United States District Court for the Western District of Oklahoma pursuant to 28 U.S.C. § 1331 and 28 U.S.C. §§ 1441, *et seq.* In support hereof, Defendant Hunton respectfully shows the Court as follows:

1. This action was commenced by the filing of a Petition on June 1, 2012, in Case No. CJ-2012-3382 in the District Court of Oklahoma County, State of Oklahoma (“State Court Action”), a court within this judicial district and division. Plaintiffs in the State Court Action are Patrick Dailey and Helen Dailey (“Plaintiffs”). The only Defendant named in the initial State Court Action was Manuel Alvarado.

2. Plaintiffs filed an Amended Petition on April 4, 2014 (“Amended Petition”), in which it for the first time named Barry G. Sell, Mechanical Technologies by

Barry, L.L.C., and Hunton Distribution Group, L.P., as Defendants in addition to previously named Defendant Manuel Alvarado. Plaintiffs' Amended Petition in the State Court Action included a demand for jury trial.

3. Defendant Hunton Distribution Group, L.P., hereby removes to this Court the State Court Action captioned *Patrick Dailey and Helen Dailey vs. Manuel Alvarado, Barry G. Sell, Mechanical Technologies by Barry L.L.C., and Hunton Distribution Group L.P.*, Case No. CJ-2012-3382 in the District Court of Oklahoma County, State of Oklahoma.

4. True and correct copies of the docket sheet and all process, pleadings, and orders filed or served upon Defendant Hunton in the aforementioned State Court Action are attached hereto as follows, and made a part hereof:

Exhibit 1	Docket Sheet
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Exhibit 2	Amended Petition
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Exhibit 3	Summons
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Exhibit 4	Notice/Return of Service of Process
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5. In the Amended Petition, Plaintiffs allege that Defendant Hunton was negligent *per se* because it sold heat, ventilation, and air conditioning ("HVAC") equipment to Defendant Manuel Alvarado, who was allegedly not properly licensed to install or service such equipment. Plaintiffs allege that such sale was in violation of state and federal environmental laws and building codes and in violation of manufacturer and internal policies and requirements. In the Amended Petition, Plaintiffs first asserted a

cause of action under the Racketeer Influenced and Corrupt Organizations Act (“RICO”), 18 U.S.C. §§ 1961, *et seq.*, for conspiracy and pattern of unlawful and negligent conduct.

6. Removal of the State Court Action is proper because Plaintiffs’ claim, as first plead in the Amended Petition, is the kind of action of which the United States District Courts have original jurisdiction pursuant to 28 U.S.C. § 1331 because some or all of Plaintiffs’ claims arise under the Constitution, laws, or treaties of the United States. Specifically, Plaintiffs’ claim arises under 18 U.S.C. §§ 1961, *et seq.*

7. Defendant Hunton was served with the Amended Petition alleging a federal cause of action on April 7, 2014. Accordingly, this Notice of Removal is timely filed pursuant to 28 U.S.C. § 1446(b), as it is being filed within thirty (30) days after receipt by Defendant Hunton of the Amended Petition, from which it was first ascertained that the case is one that is removable.

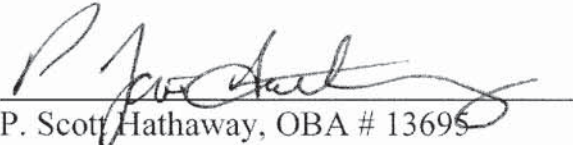
8. All Defendants who have been properly joined and served as of the date of this filing consent to removal of the State Court Action to federal district court. At this time, this includes only Defendant Manual Alvarado, who has consented to removal through counsel, Shaun T. Riley. To date, no other Defendants named in the Amended Petition have received proper service thereof, as reflected in the state court docket sheet, and Defendant Hunton has no other record or knowledge of proper service on such other Defendants.

9. Contemporaneously herewith, written notice of this Notice of Removal will be served on all properly served parties to this action, and a copy of this Notice of Removal is being filed with the Court Clerk of Oklahoma County, Oklahoma, pursuant to

28 U.S.C. § 1446(d), which shall effect the removal, and said state court shall proceed no further unless and until the case is remanded, as provided by law. A copy of that Notice of Filing Notice of Removal is attached hereto as Exhibit 5.

WHEREFORE, Defendant Hunton Distribution Group, L.P., by and through its undersigned counsel, hereby removes the above-captioned case now pending in the District Court of Oklahoma County, State of Oklahoma, to the United States District Court for the Western District of Oklahoma.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'P. Scott Hathaway', is written over a horizontal line.

P. Scott Hathaway, OBA # 13695
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***ATTORNEY FOR DEFENDANT
HUNTON DISTRIBUTION GROUP, L.P.***

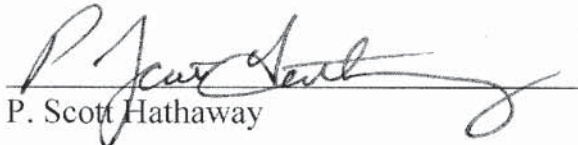
CERTIFICATE OF SERVICE

I hereby certify that on the 24th day of April, 2014, I caused to be served a true and correct copy of the foregoing document, by mailing such document to the following attorneys of record, with proper postage paid thereon:

Rex Hodges, OBA # 12118
3555 N.W. 58th Street, Suite 800
Oklahoma City, Oklahoma 73142
Telephone: (405) 948-8402
Facsimile: (866) 255-2280
Email: rexfhodes@gmail.com

Shaun T. Riley, OBA # 21887
The Riley Law Firm, P.L.L.C.
P.O. Box 95784
Oklahoma City, Oklahoma 73129-3632
Telephone: (405) 370-0322
Email: sriley4@yahoo.com

and further that a copy of said Notice of Removal was mailed to Tim Rhodes, Court Clerk of the District Court of Oklahoma County, State of Oklahoma, 320 Robert S. Kerr, Room 409, Oklahoma City, Oklahoma, 73102, for filing.


P. Scott Hathaway